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9
10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 TYRELL WADE NAULT,

17 Defendant.

Case No. 2:20CR00161-SAB

United States' Sentencing
Memorandum

18 Plaintiff, United States of America, by and through Vanessa R. Waldref,
19 United States Attorney for the Eastern District of Washington, and Dominique Juliet
20 Park, Assistant United States Attorney for the Eastern District of Washington,
21 submits this filing as its justification regarding the Plea Agreement and sentencing
22 recommendation. For the reasons outlined below, the United States requests that the
23 Court accept the Plea Agreement negotiated between the parties and sentence Tyrell
24 Wade Nault (hereinafter "Defendant") to a 151-month term of imprisonment, along
25 with a three-year term of supervised release.

26 **THE PLEA AGREEMENT**

27 The Plea Agreement, filed at ECF No. 33, allows the United States to request
28 a sentence that includes a 151-month term of imprisonment. The Plea Agreement
also allows Defendant to request a 120-month term of imprisonment even though

that is below the advisory sentencing guideline range referenced in the Presentence Investigation Report (“PSR”). ECF No. 33 at ¶ 10. The parties negotiated a sentencing range of 120 to 151 months’ imprisonment by taking into consideration Defendant’s youth, his criminal history, the amount of time that he remains subject to serve in the custody of the Montana Department of Corrections, and the greatest length of incarceration that he has served to date. Based on these factors, and others, the parties believe that this negotiated sentencing range will result in a fair disposition of the case.

SENTENCING CALCULATION

i. Base offense level & enhancements

The United States agrees that Count 1, Possession with Intent to Distribute a Mixture and Substance Containing a Detectable Amount of Methamphetamine and Count 2, Felon in Possession of a Firearm, are grouped for guideline calculation purposes under USSG §3D1.2(c) because one of the counts embodies conduct that is treated as a specific offense characteristic in, or other adjustment to, the guideline applicable to the other count. PSR ¶ 33.

The United States agrees that Defendant’s base offense level is 30 under USSG §2D1.1(a)(5) due to the drug quantity in this case. PSR ¶ 34. The United States agrees that Defendant’s offense level is increased by two-levels under USSG § 2D1.1(b)(1) because Defendant possessed a firearm on the date of the offense. PSR ¶ 35.

The United States agrees that Defendant qualifies for acceptance of responsibility, including the third level off, under USSG §3E1.1(a) and (b). PSR ¶¶ 41-42. These calculations bring Defendant’s total adjusted offense level to 29. PSR ¶ 43.

Finally, the United States agrees that Defendant’s criminal history score is 10 with a resultant criminal history category (“CHC”) of V. PSR ¶¶ 82, 84. Based on

1 a total adjusted offense level of 29 and a CHC of V, Defendant's advisory guideline
2 range is 140 to 175 months' imprisonment. PSR ¶ 160.

3 **SENTENCING RECOMMENDATION**

4 In determining what sentence to impose, the Court is required to consider the
5 factors enumerated in 18 U.S.C. § 3553(a). These factors include, among other
6 things, the nature and circumstances of the offense, the history and characteristics of
7 the defendant, the need for the sentence imposed to reflect the seriousness of the
8 offense, the need to promote respect for the law, the need to deter criminal conduct,
9 and the need to protect the public. Given the seriousness of Defendant's contacts
10 with law enforcement as they relate to drug trafficking activity, the United States
11 recommends a sentence of 151 months' imprisonment as sufficient but not greater
12 than necessary to accomplish the goals of sentencing.¹

14 At the time of the offense conduct, Defendant was approximately twenty-one
15 years of age. There was a warrant for his arrest out of Montana because he was
16 alleged to have violated the conditions of his release in connection with deferred
17 and/or suspended drug charges. PSR ¶¶ 9, 61. The PSR reflects that in Defendant's
18 relatively short lifetime, he has had a number of contacts with law enforcement as a
19 result of drug trafficking-related activities. For example, in November 2017,
20 Defendant was charged with having committed multiple drug violations (Montana
21 Case No. DC-17-128). PSR ¶¶ 61, 64. Around this time, law enforcement arrested
22 Defendant after locating him in a residence that had a "weapon, \$1,500 of U.S.
23

26 ¹ The Plea Agreement permits Defendant to request that the sentence imposed by the
27 Court run concurrently to any resultant imprisonment stemming from pending
28 probation violations in Montana Case Nos. DC-17-32 (Hill County, Montana), DC-
17-128 (Hill County, Montana) and DC-19-001 (Hill County, Montana). The Court
has authority to order concurrent sentencing under 18 U.S.C. § 3584.

1 currency, drug paraphernalia, cocaine, suspected methamphetamine (approximately
2 34.5 grams), and marijuana (.4 grams).” PSR ¶ 64.

3 As another example, in December 2018, Defendant was charged in an
4 additional case with Criminal Possession of Dangerous Drugs With Intent to
5 Distribute (Montana Case No. DC-19-001). PSR ¶¶ 77, 80. Around this time, law
6 enforcement arrested Defendant in a hotel room that he refused to leave, along with
7 “34.3 grams of methamphetamine, bindle papers, tinfoil with burned residue, two
8 digital scales, 9mm ammunition, and a Samsung phone.” PSR ¶ 80.

9 And, in July 2020, Defendant, who was subject to a no bond felony nationwide
10 warrant, fled from law enforcement while driving his vehicle at speeds of more than
11 100 miles per hour up to 121 miles per hour.² PSR ¶ 93. Because Defendant’s
12 conduct subsequent to these earlier criminal cases has led to the issuance of bench
13 warrants, petitions to revoke release conditions, and more recently, this current
14 federal case, Defendant is facing additional time in the Montana Department of
15 Corrections. Significantly, the PSR notes that in connection with Montana Case No.
16 DC-19-001, Defendant will be incarcerated until April 22, 2027. PSR ¶ 81.

17 Despite receiving leniency in the form of deferred and/or suspended charges,
18 Defendant showed no apparent willingness to change his dangerous behaviors.
19 Rather, he continued on with his drug trafficking-related activities such that he was
20 charged in this case on November 17, 2020 with Possession With Intent to Distribute
21 a Mixture and Substance Containing a Detectable Amount of Methamphetamine
22 (Count 1), Felon in Possession of a Firearm and Ammunition (Count 2), and
23 Possession of a Firearm in Furtherance of a Drug Trafficking Crime (Count 3). ECF
24 No. 1.

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28 ² The PSR notes in a separate incident, sometime after April 2020, Defendant fled
from law enforcement while driving his vehicle at speeds in excess of 100 miles per
hour. PSR ¶ 9. Defendant eventually crashed his vehicle and fled by foot. *Id.*

1 The offense conduct, as noted in the PSR, reflects that in May 2020, law
2 enforcement, who had a warrant for Defendant's arrest, located Defendant at a hotel
3 in Spokane Valley, Washington. PSR ¶ 11. During this encounter, law enforcement
4 found Defendant in possession of a loaded firearm that was stolen, \$2,100 in U.S.
5 currency, and a bag of blue pills later identified as oxycodone 30mg. *Id.* Law
6 enforcement also found approximately 81 grams of mostly pure (actual)
7 methamphetamine in Defendant's vehicle. PSR ¶¶ 13, 17-19.

8 The nature and circumstances of the offenses that have brought Defendant
9 before the Court are extremely concerning. The picture that the United States has of
10 Defendant is exacerbated by his criminal history, which includes evidence of
11 involvement in drug trafficking activities for quite some time, and associated
12 criminal conduct such as obstruction of justice (e.g. PSR ¶ 63) and several instances
13 of fleeing from law enforcement. Due to the seriousness of Defendant's offense
14 conduct, the United States recommends a sentence of 151 months' imprisonment.
15 The United States submits that a sentence of this length takes into consideration the
16 facts and circumstances of Defendant's escalating criminal conduct, will hold
17 Defendant accountable for his conduct, and should discourage him from engaging
18 in future criminal conduct. Just as importantly, a sentence of this length will offer
19 the public much needed protection from the Defendant.
20

21 Finally, the United States requests, consistent with the Plea Agreement, that
22 the Court impose a special condition, that is, Defendant shall participate and
23 complete such drug and alcohol testing and drug and alcohol treatment programs as
24 may be directed by U.S. Probation. ECF No. 33 ¶ 12(a). The PSR outlines in detail
25 Defendant's struggles with drug addiction, and particularly, addiction to
26 methamphetamine. PSR ¶ 111. Defendant's introduction to methamphetamine at
27 the age of 17 appears to coincide with his downward spiral into drug trafficking-
28 related activities. However, as the PSR notes, Defendant has yet to successfully

1 complete a drug treatment program. PSR ¶ 112. Accordingly, the United States
2 submits that any sentence imposed must take into consideration Defendant's history
3 of substance abuse and his need to receive treatment as contemplated by 18 U.S.C.
4 § 3553(a)(2)(D).

5 **CONCLUSION**

6 For the above reasons, the United States requests that the Court sentence
7 Defendant to a 151-month term of imprisonment, along with a three-year term of
8 supervised release. The United States submits that this proposed sentence is
9 sufficient, but not greater than necessary, to accomplish the goals of 18 U.S.C.
10 § 3553(a).

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12 Respectfully submitted,

13 Vanessa R. Waldref
14 United States Attorney

15 s/ Dominique Juliet Park
16 Dominique Juliet Park
17 Assistant United States Attorney
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CERTIFICATE OF SERVICE

I, Dominique Juliet Park, hereby certify that on March 7, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Steve Roberts, Assistant Federal Defender
Steve.roberts@fd.org

s/ Dominique Juliet Park
Dominique Juliet Park
Assistant United States Attorney